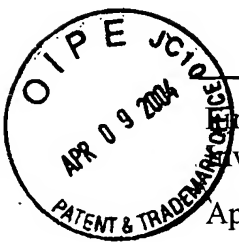


Image

04-12-04

1732



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named

Inventor : James W. Comb

Appln. No. : 10/025,207

Filed : December 18, 2001

Title : LIQUIFIER PUMP CONTROL IN AN
EXTRUSION APPARATUS

Docket No. : S697.12-0059

Group Art Unit: 1732

Examiner: S. Lechert, Jr.

EXPRESS MAIL COVER SHEET

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SENT VIA EXPRESS MAIL

April 9, 2004

Express Mail No.: EV 302266976 US

Sir:

The following papers are being transmitted via **EXPRESS MAIL** to the U.S. Patent and Trademark Office on the date shown below:

1. Postcard;
2. Fee Transmittal; and
3. Response.

Respectfully submitted,

KINNEY & LANGE, P.A.

Date: _____

4/9/04

By _____

Alan M. Koenck

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Telephone: (612) 339-1863
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FEE TRANSMITTAL

Complete if Known

Application No.	10/025,207
Filing Date	December 18, 2001
First Named Inventor	James W. Comb
Group Art Unit	1732
Examiner Name	S. Lechert, Jr.
Atty. Docket Number	S697.12-0059

Total Amount of Payment \$-0-

METHOD OF PAYMENT (Check One)

1. ☒ The Commissioner is hereby authorized to charge any additional fee required under 37 C.F.R. 1.16 and 1.17 and credit any over payments to Deposit Account No.11-0982. Deposit Account Name: Kinney & Lange, P.A. A duplicate copy of this communication is enclosed

2. ☐ Check Enclosed

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description
1001	770	2001	385	<input type="checkbox"/> Utility Filing Fee
1002	340	2002	170	<input type="checkbox"/> Design Filing Fee
1004	770	2004	385	<input type="checkbox"/> Reissue Filing Fee
1005	160	2005	80	<input type="checkbox"/> Prov. Filing Fee

Subtotal (1) \$-0-

2. EXTRA CLAIM FEES

	Number Claims	Prior	Extra	Fee from Below	Fee Paid
Total	-	=	X	=	-
Indep.	-	=	X	=	-
Multiple Dependent Claims				=	-

Insert 3 and 20, or number previously paid if greater; Reissue see below

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Description
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple Dependent Claim
1204	86	2204	43	Reissue Independent Claims Over Original Patent
1205	18	2205	9	Reissue claims in excess of 20 and over original patent

Subtotal (2) \$-0-

FEE CALCULATION (Continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee paid
1051	130	2051	65	Surcharge - Late filing fee or oath	-
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	-
1053	130	1053	130	Non-English specification	-
1812	2,520	1812	2,520	For Filing a Request for Reexamination	-
1251	110	2251	55	Extension for reply within first month	-
1252	420	2252	210	Extension for reply within second month	-
1253	950	2253	475	Extension for reply within third month	-
1254	1,480	2254	740	Extension for reply within fourth month	-
1255	2,010	2255	1,005	Extension for reply within fifth month	-
1402	330	2402	165	Filing a brief in support of an appeal	-
1403	290	2403	145	Request for oral hearing	-
1814	110	2814	55	Terminal Disclaimer Fee	-
1452	110	2452	55	Petition to revive - unavoidable	-
1453	1,330	2453	665	Petition to revive - unintentional	-
1501	1,330	2501	665	Utility/Reissue issue fee	-
1502	480	2502	240	Design issue fee	-
1460	130	1460	130	Petitions to the Commissioner	-
1807	50	1807	50	Petitions related to provisional applications	-
1806	180	1806	180	Submission of Information Disclosure Statement	-
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	-
1801	770	2801	385	Request for Continued Examination (RCE)	-

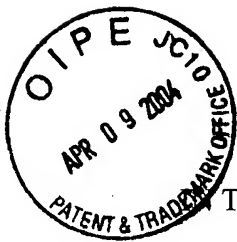
Other fee (specify) _____

Subtotal (3) \$-0-

Signature Alan M. Koenck

Alan M. Koenck

Reg. No. 43,724Date April 9, 2004Deposit Account No. 11-0982



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RESPONSE

Mail Stop Non-Fee Amendment
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SENT VIA EXPRESS MAIL

April 9, 2004

Express Mail No.: EV 302266976 US

Sir:

This is in response to the Office Action mailed on March 22, 2004, in which restriction was required between Invention I (claims 1-12 and 21-23, "drawn to a method of controlling an extrusion process") and Invention II (claims 13-20 and 24-29, "drawn to an apparatus for controlling").

The Applicant hereby elects Invention I (claims 1-12 and 21-23) with traverse.

The Examiner contended that Inventions I and II are related as a process and an apparatus for its practice. As such, the inventions are distinct if it can be shown that either (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. M.P.E.P. 806.05(e).

The Examiner then stated that "In this case the extrusion apparatus and the control for the apparatus can be used in mixing and need not be used in shaping an article and therefore the method of controlling the apparatus for extrusion shaping would be different than for controlling a

mixing apparatus." The Applicant respectfully disagrees with the Examiner's contended distinction between mixing and shaping applications that is used to divide the claims.

More specifically, the Applicant disagrees that the apparatus, as recited in claims 13-20 and 24-29, can be used to practice a mixing process and need not be used to practice the process of the method claims. The apparatus claims include no structure for performing a mixing operation, and the specification does not teach any mixing application. The Applicant asserts that additional structure would be required in order to perform any mixing operation. The apparatus claims, like the method claims, are directed to producing a liquifier output flow rate that is proportional to the velocity of an extrusion head. The claimed extrusion head carries the liquifier and is movable along a predetermined tool path. The sole use for the apparatus as claimed is for controlling the flow rate of material from the liquifier as the extrusion head moves along the tool path. Likewise, independent claims 1, 6 and 21 set forth a method of controlling an output flow rate of material from the liquifier based on the extrusion head velocity profile.

The apparatus claims have no greater applicability to performance of any mixing operation than do the method claims. The only mention of mixing and shaping applications utilizing different control methods was provided by the Examiner. The claimed method and apparatus are both used for producing a liquifier output flow rate that is proportional to the velocity of an extrusion head, as in the shaping of an article, and neither performs mixing. Therefore, there is no proper distinction between Inventions I and II sufficient to require restriction between the pending claims of this application.

In view of the foregoing, the restriction requirement between Invention I (claims 1-12 and 21-23) and Invention II (claims 13-20 and 24-29) should be withdrawn. Consideration and allowance of all pending claims 1-29 is respectfully requested.

First Named Inventor: James W. Comb

Application No.: 10/025,207

-3-

Respectfully submitted,

KINNEY & LANGE, P.A.

Date:

4/9/04

By:



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